



FEDERAL ELECTION COMMISSION
Washington, DC 20463

AUG 17 2015

Robert Foehl, Esq.
ACA International, Inc.
4040 West 70th Street
Minneapolis, Minnesota 55435

RE: MUR 6922 (ACA/ACPAC)

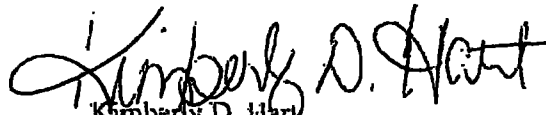
Dear Mr. Foehl:

On, August 11, 2015, the Federal Election Commission accepted the signed conciliation agreement in settlement of violations of 52 U.S.C. §§ 30104(b), 30118(a) and 30122, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act") and 11 C.F.R. §§ 114.2(b) and 110.4(b)(1)(i), (iv). Accordingly, the file has been closed in this matter as to ACA International, Inc. and ACPAC ACA International Political Action Committee and Rae Ann Bevington in her official capacity as treasurer.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 52 U.S.C. § 30109(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1618.

Sincerely,


Kimberly D. Hart
Attorney

Enclosure
Conciliation Agreement

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3 In the Matter of)

4 ACA International)

MUR 6922

ACPAC ACA International Political Action)
Committee and Rae Ann Bevington)
in her official capacity as treasurer)

OFFICE OF
FEDERAL ELECTIONS
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5 **CONCILIATION AGREEMENT**

6
7 This matter was initiated by a *sua sponte* submission made to the Federal Election
8 Commission ("the Commission") by ACA International ("ACA") and its separate segregated
9 fund, ACPAC ACA International Political Action Committee ("ACPAC").

10 The Commission found reason to believe that ACA violated 52 U.S.C. §§ 30118(a)
11 and 30122¹ (formerly 2 U.S.C. §§ 441b(a) and 441f) and 11 C.F.R. §§ 110.4(b)(1)(i) and
12 114.2(b) by making a prohibited corporate contribution, totaling \$23,419, in the names of others.
13 It also found reason to believe that ACPAC violated 52 U.S.C. §§ 30104(b), 30118(a), and
14 30122 (formerly 2 U.S.C. §§ 434(b), 441b(a), and 441f) and 11 C.F.R. §§ 110.4(b)(1)(iv) and
15 114.2(d) by accepting a prohibited corporate contribution, totaling \$23,419, made in the names
16 of others and by failing to file accurate disclosure reports.

17 NOW, THEREFORE, the Commission and the Respondents, having participated in
18 informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree
19 as follows:

20 I. The Commission has jurisdiction over the Respondents and the subject matter of
21 this proceeding, and this agreement has the effect of an agreement entered pursuant to 52 U.S.C.
22 §30109(a)(4)(A)(i) (formerly 2 U.S.C. § 437g(a)(4)(A)(i)).

¹ On September 1, 2014, the Act was transferred from Title 2 to new Title 52 of the United States Code.

1 II. Respondents have had a reasonable opportunity to demonstrate that no action
2 should be taken in this matter.

3 III. Respondents enter voluntarily into this agreement with the Commission.

4 IV. The pertinent facts in this matter are as follows:

5 1. ACA is an incorporated not-for-profit trade association servicing businesses and
6 individuals in the credit and collection industry.

7 2. ACPAC is its separate segregated fund and is registered with the Commission as
8 an unauthorized qualified non-party committee. Rae Ann Bevington is ACPAC's current
9 treasurer. Jean Cottington ("Cottington") was ACPAC's Treasurer from April 15, 2008 to April
10 25, 2011. Ms. Bevington was not affiliated with ACA and was not ACPAC's treasurer when the
11 conduct occurred that gave rise to this Matter. Ms. Bevington is referenced in her current official
12 capacity in connection with this matter only for the reasons described in the Commission's
13 policy statement regarding treasurer liability. *See Statement of Policy Regarding Treasurers*
14 *Subject to Enforcement Proceedings*, 70 Fed. Reg. at 6 (Jan. 3, 2005).

15 3. Michael Henke ("Henke") was ACA's Vice-President of Finance and ACPAC's
16 Assistant Treasurer during the time period of April 15, 2008 to April 25, 2011.

17 4. On November 12, 2010, in an effort to address a perceived shortfall in ACPAC's
18 bank account, Henke authorized the wire transfer of \$23,419 in ACA general treasury funds to
19 ACPAC's account. To obscure the true purpose of that transfer, Henke caused his staff to create
20 records falsely indicating that several ACPAC donors who contributed less than their maximum
21 contribution limit had made additional contributions to ACPAC totaling \$23,419.

22 5. On December 2, 2010, then-Treasurer Jean Cottington filed the 2010 Post-
23 General Election Report for ACPAC with the Commission. Unbeknownst to her and as a result

1 of Henke's conduct, that report falsely reported ACPAC's receipt of \$23,419 in ACA corporate
2 funds as itemized contributions from individuals totaling \$22,649 and un-itemized cash
3 contributions from individuals totaling \$770.

4 6. On January 20, 2011, after Henke discovered that in fact no shortfall existed in
5 ACPAC's account, Henke attempted to reverse the November 12, 2010 transfer by issuing a
6 \$23,419 check from ACPAC to ACA that he caused to be backdated to the date of the prior
7 transfer.

8 7. On January 31, 2011, Jean Cottingham filed the 2010 Year-End Report for
9 ACPAC. As a result of Henke's efforts to conceal the true nature of the returned funds from
10 ACPAC to ACA, that report falsely disclosed "Refunds of Contributions to Persons Other Than
11 Political Committees" in the amount of \$23,419, and falsely itemized false records of refunds to
12 the contributors associated with the previously falsified contributions.

13 8. On February 7, 2011, the Committee amended its 2010 Post-General Report,
14 again falsely reporting that ACPAC received fictitious contributions. Also on February 7, 2011,
15 the Committee filed an Amended 2010 Year-End Report, which falsely disclosed the refund of
16 eight contributions totaling \$22,649 and the refund of \$770 in un-itemized cash contributions.

17 V. The pertinent legal principles in this matter are as follows:

18 1. Under the Federal Election Campaign Act of 1971, as amended (the "Act"),
19 corporations may not make contributions to federal political committees, other than independent-
20 expenditure-only political committees. 52 U.S.C. § 30118(a) (formerly 2 U.S.C. § 441b(a);
21 Advisory Op. 2010-11 (Commonsense Ten). Moreover, no officer of a corporation may consent
22 to any such contribution by the corporation. 52 U.S.C. § 30118(a) (formerly 2 U.S.C.
23 § 441b(a)); 11 C.F.R. § 114.2(e).

2. A political committee is prohibited from knowingly receiving prohibited contributions. 52 U.S.C. § 30118(a) (formerly 2 U.S.C. § 441b(a)); 11 C.F.R. § 114.2(d).

3. The Act also provides that “no person shall make a contribution in the name of another person.” 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f); 11 C.F.R. § 110.4(b)(1)(i).

4. Political committees must regularly submit to the Commission reports that accurately disclose their receipts, disbursements, and cash-on-hand balances. 52 U.S.C. § 30104(b)(1)-(4) (formerly 2 U.S.C. § 434(b)(1)-(4)); 11 C.F.R. § 104.3(a)(1), (b). Among other requirements, those disclosure reports must specifically identify the cash-on-hand balance at the beginning of the reporting period, the total amount of receipts, and the total amount of disbursements, including the name and address of each person to whom an expenditure exceeding \$200 is made, along with the date, amount, and purpose of the particular expenditure. 52 U.S.C. § 30104(b)(1), (2), (4), (5), (6)(B) (formerly 2 U.S.C. § 434(b)(1), (2), (4), (5), (6)(B)).

VI. Respondents admit to the following violations of the Act:

1. ACA International violated 52 U.S.C. §§ 30118(a) and 30122 (formerly 2 U.S.C. §§ 441b(a) and 441f) and 11 C.F.R. §§ 110.4(b)(1)(i) and 114.2(b).

2. ACA International Political Action Committee and Rae Ann Bevington in her official capacity as treasurer violated 52 U.S.C. §§ 30104(b), 30118(a), and 30122 (formerly 2 U.S.C. §§ 434(b), 441b(a), and 441f) and 11 C.F.R. §§ 110.4(b)(1)(iv) and 114.2(d).

VII. Respondents will take the following actions:

1. Respondents will cease and desist from violating 52 U.S.C. §§ 30118(a) and 30122 (formerly 2 U.S.C. §§ 441b(a) and 441f) and 11 C.F.R. §§ 110.4(b)(i), (iii) and 114.2(b), (d).

2. Each Respondent will pay a civil penalty of \$4,400 or a \$8,800 joint civil penalty pursuant to 52 U.S.C. § 30109 (a)(5)(A) (formerly 2 U.S.C. § 437g(a)(5)(A)).

VIII. The Commission, on request of anyone filing a complaint under 52 U.S.C. § 30109(a)(1) (formerly 2 U.S.C. § 437g(a)(1)) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

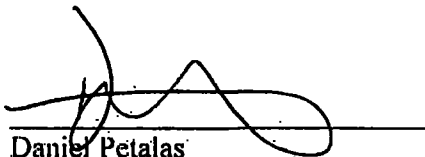
IX. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

X. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

8/13/15
Date


Daniel Petalas
Associate General Counsel
for Enforcement

1 FOR THE RESPONDENTS:

2 April 23, 2015
3 Date

BY: R. L. Foehl
Robert L. Foehl, Esq.
Counsel to ACA International and ACPAC
ACA International Political Action
Committee

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